

U.S. Patent Appln. Ser. No. 10/625,605
Submission Under 37 C.F.R. § 1.114 Responsive to Final Rejection dated April 17, 2007
Attorney Docket No. 60783.000005
July 30, 2007

REMARKS

The Final Rejection has been carefully considered. Claims 15, 17-19 and 21-31 are pending. Claims 15 and 18 have been amended. No new matter has been added by way of amendment.

Claims 15, 17, 19 and 21-31 were rejected under 35 U.S.C. § 112, first paragraph as allegedly failing to comply with the written description requirement. *See* Final Rejection at 2. Claims 15, 17-19 and 21-31 were rejected under 35 U.S.C. § 112, second paragraph as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. *See* Final Rejection at 2. Claims 15 and 17 were rejected under 35 U.S.C. § 102(b) as allegedly anticipated by USPN 5,234,126 to Jonas *et. al.*, ("Jonas"). *See* Final Rejection at 4. Claim 18 was rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Jonas and USPN 4,667,454 to McHenry *et. al.* ("McHenry"). *See* Final Rejection at 6, 8. Claims 18 and 29-31 were rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over USPN 5,234,126 to Agrawal *et. al.* ("Agrawal"). *See* Final Rejection at 10. Claims 21-26 were rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Jonas in view of US Published Application 2002/0187290 to Hodson *et. al.*, ("Hodson"). *See* Final Rejection at 13. Claim 27 was rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Jonas in view of Hodson and USPN 5,202,192 to Hope *et. al.*, ("Hope"). *See* Final Rejection at 15. Claim 28 was rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Jonas in view of Hodson and USPN 4,554,190 to McHenry *et. al.* ("McHenry II"). *See* Final Rejection at 15.

Applicants respectfully submit that all pending claims are allowable over the cited references in view of the amendments and arguments made herein, and respectfully request reconsideration and allowance of the same.

I. Interview on July 11, 2007.

Applicants thank the Examiner for the Interview that was conducted on July 11, 2007 between undersigned counsel, Examiner Butler and Supervisor Johnson. Applicants thank the Examiner for considering the present claim amendments and for reaching agreement on several issues that were raised in the Final Rejection. Specifically, undersigned counsel discussed the

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present claim amendments with the Examiner, and reached agreement that certain of these amendments overcame the stated rejections where noted below. Applicants further note that the rejections of claims 15 and 17 have been overcome, and respectfully solicit allowance of the same.

• **Rejections of Claims 15, 17-19, and 21-31 Under 35 U.S.C. § 112, First Paragraph.**

Claims 15, 17-19 and 21-31 were rejected under 35 U.S.C. § 112, first paragraph as allegedly failing to comply with the written description requirement. *See* Final Rejection at 2. Specifically, the Examiner stated that “[c]laims 15 and 18 recite that the curve’s shape is ‘arcuately’ curved in line 10 and 11, respectively, which is not described in the specification as originally filed.” *Id.* Claims 17, 19 and 21-31 were rejected “via their dependency” on claims 15 and 18.” *Id.*

Applicants noted that Fig. 2A and the specification beginning at p. 17, line 10 describe element 15a, which references the bottom surface of the container prior to hot filling, and element 15b, which references the bottom surface of the container after hot-filling and cooling of the food product. Element 15a clearly shows an arcuately shaped bottom of the container. Element 19 is disclosed p. 18, lines 5-11 as the uncollapsed portion of the bottom surface which provides a surface when the container is standing upright.

Applicants noted that the written description requirement can be met by “words, structures, figures, diagrams and formulas that fully set forth the claimed invention.” *See* MPEP § 2163(I), *citing* *Lockwood v. American Airlines, Inc.*, 107 F.3d 1565, 1572, 41 USPQ2d 1961, 1966 (Fed. Cir. 1997). Applicants and the Examiner reached agreement that the specification as originally filed meets the written description requirement for the “arcuately” curved limitation in claims 15 and 18, and Applicants thank the Examiner for agreeing that the written description requirement was met with regard to this limitation.

• **Rejections of Claims 15, 17-19 and 21-31 Under 35 U.S.C. § 112, Second Paragraph.**

Claims 15, 17-19 and 21-31 were rejected under 35 U.S.C. § 112, second paragraph as allegedly being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. *See* Final Rejection at 2. Specifically, the Examiner proposed the claim language “both sides of the curved surface of the bottom surface

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are concave to the body cavity" for claims 15 and 18 with regard to the bottom curved surface. Applicants have amended claims 15 and 18 accordingly, and thank the Examiner for agreeing that the amended claim language met the requirements of 35 U.S.C. § 112, second paragraph.

• **Rejections of Claims 15 and 17 Under 35 U.S.C. § 102.**

Claims 15 and 17 were rejected under 35 U.S.C. § 102(b) as allegedly anticipated by Jonas. See Final Rejection at 4. Specifically, the Examiner stated that Jonas teaches a method for forming a plastic container for hot-filled food product comprising [*inter alia*] a bottom surface "... formed to consist of an arcuately curved surface contiguous to a concentric ring, both sides of the curved surface of the bottom surface are concave to the body cavity, and the concentric ring is proximate to both the curved surface and the container wall (column 5, lines 19-27; Fig. 3 [see outwardly deflected portion of bottom surface]), wherein further the concentric ring is substantially planar between the curved surface and the container wall (see Fig. 3's concentric ring, which is the ring that extends from the wall to the concave surface) ..." Final Rejection at 4.

During the Interview, Applicants noted that col. 5, lines 19-27 does not disclose the limitations of claim 15. There is no disclosure of a bottom surface consisting of an arcuately curved surface contiguous to a concentric ring. Applicants also noted that Fig. 3 likewise does not disclose the limitations of claim 15. The bottom surface of the container shown in Fig. 3 does not "consist of" an arcuately curved surface contiguous to a concentric ring, where both sides of the curved surface of the bottom surface are concave to the body cavity and the concentric ring is proximate to both the curved surface and the container wall. The Examiner noted in the Final Rejection that he considers the "concentric ring" to be shown in Jonas as the "ring that extends from the wall to the concave surface." This ring, however, is *not* substantially planar and proximate to the curved surface. Rather, the ring referenced by the Examiner includes a substantially planar portion *and then a curved portion curving inward to the curved surface*.

Additionally, Applicants amended claim 15 to read a "planar ring" which is not disclosed in Jonas as seen in Figs. 3 or 5. Applicants thank the Examiner for agreeing that, in light of the amendment of claim 15, Fig. 3 of Jonas does not disclose this limitation and therefore Jonas does not anticipate claim 15.

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- **Rejection of Claim 18 Under 35 U.S.C. 103(a) over Jonas.**

Claim 18 was rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Jonas. See Final Rejection at 6. Specifically, the Examiner stated in the Final Rejection that Jonas teaches a method for forming a plastic container with a selectively deformable surface where the plastic container comprises [*inter alia*] "... formed to consist of an arcuately curved surface contiguous to a concentric ring, both sides of the curved surface of the bottom surface are concave to the body cavity, and the concentric ring is proximate to both the curved surface and the container wall (column 5, lines 19-27; Fig. 3 [see outwardly deflected portion of bottom surface]), wherein further the concentric ring is substantially planar between the curved surface and the container wall (see Fig. 3's concentric ring, which is the ring that extends from the wall to the concave surface) ..." Final Rejection at 6-7.

During the Interview, Applicants noted that Jonas does not form a *prima facie* case of obviousness because it does not disclose each and every limitation of claim 18 for the same previously stated reasons that Jonas does not anticipate claim 15 under 35 U.S.C. § 102(b). Applicants thank the Examiner for agreeing that, in light of the amendment of claim 18, Fig. 3 of Jonas does not disclose this limitation and therefore claim 18 is not unpatentable under 35 U.S.C. § 103(a) over Jonas.

- **Rejection of Claim 18 Under 35 U.S.C. 103(a) over Agrawal.**

Claim 18 was rejected as allegedly unpatentable over Agrawal. See Final Rejection at 10. The Examiner stated that Agrawal teaches a method for forming a plastic container with a selectively deformable surface where the plastic container comprises [*inter alia*] "... a bottom surface ... formed during thermoforming to consist of an arcuately curved surface contiguous to a concentric ring, both sides of the curved surface of the bottom surface are concave to the body cavity, and the concentric ring is proximate to both the curved surface and the container wall (abstract; see Fig. 3, Ref. 64 [outwardly flexed]); wherein further the concentric ring is substantially planar between the curved surface and the container wall (See Fig. 3 between Ref. No. 64 and the side wall) ..." Final Rejection at 11.

During the Interview, Applicants noted that Fig. 3 is described at col. 11, lines 1-3 as having a plurality of stress points 68 which can be seen in Fig. 3 to be concave with respect to

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the body cavity, *not* substantially planar between the curved surface 64 and the container sidewall. Additionally, Applicants amended claim 18 to read a "planar ring" which is not disclosed in Agrawal as seen in Figs. 3 or 5. Since the language of the claim is closed, stress points 68 do not meet this limitation.

Additionally, the Examiner recognized that Agrawal does not maintain inward flex during cooling of a hot-filled food product. *See* Final Rejection at 17, point 14. The Examiner stated that the features relied upon by Applicants (flexing or maintaining inward during expansion) are not recited in the rejected claims. Applicants disagree. Claim 18 recites the following: "wherein further the convex curved surface is formed during thermoforming such that *it flexes inward toward the body cavity of the container upon filling and sealing* the container with a hot-filled food product at temperatures of about 160°F to about 200°F and the subsequent formation of a pressure differential between the interior of the sealed container and atmospheric pressure of about 2.5 psi to about 10 psi, *and maintains that configuration following cooling of the hot food product . . .*" (emphasis added). Applicants thank the Examiner for agreeing that the claim 18 is not unpatentable under 35 U.S.C. § 103(a) over Agrawal.

- **Rejection of Claim 18 Under 35 U.S.C. 103(a) over McHenry.**

Claim 18 was also rejected under 35 U.S.C. § 103(a) over McHenry. *See* Final Rejection at 8. During the Interview, the Examiner stated that even if Fig. 1A does not disclose each and every limitation of claim 18, Fig. 1C discloses each of these limitations and specifically discloses a method for forming a plastic container with a selectively deformable surface where the plastic container comprises [*inter alia*] a ". . . bottom surface . . . formed to consist of an arcuately curved surface contiguous to a concentric ring, both sides of the curved surface of the bottom surface are concave to the body cavity, and the concentric ring is proximate to both the curved surface and the container wall (Figure 1A, approximately at Ref. No. 7); wherein further the concentric ring is substantially planar between the curved surface and the container wall (Fig. 1A, approximately at Ref. No. 9b extending from the sidewall 3 to the curved area 7) . . ." Final Rejection at 9. Applicants and the Examiner agreed that Applicants would address a rejection under 35 U.S.C. § 103(a) over both Fig. 1A and Fig. 1C of McHenry in this Submission, which argument is presented in Section III(A) *infra*.

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II. Previous Claim Rejections.

A. Claims 15, 17, 19 and 21-31.

Claim 15 was previously rejected for an alleged "insufficient antecedent basis for th[e] limitation 'the heated polymer' in the fourth line of text." Office Action dated July 25, 2006 at 3. Claim 17 was rejected "via its dependency" on claim 15. *Id.* Applicants amended claim 15 to recite a step of heating, and thank the Examiner for withdrawing this rejection.

Claim 15 was previously rejected for an alleged insufficient antecedent basis for the limitation "the heated polymer." Office Action dated July 25, 2006 at 3. Claim 17 was rejected on the same grounds due its dependency on claim 15. *Id.* Applicants amended claim 15 to recite a process step of "heating the polymer," and thank the Examiner for withdrawing this rejection.

Claim 15 was previously rejected because the limitation "the cavity" allegedly had insufficient antecedent basis. Office Action dated July 25, 2006 at 3. Claim 18 has the same limitation. *Id.* Claims 17, 19 and 21-31 were rejected based on their dependency from claims 15 and 18. *Id.* Claims 15 and 18 were amended to recite the limitation "a body cavity formed from a bottom surface and a container wall between the mouth and the bottom surface" and thank the Examiner for withdrawing these rejections.

B. Claims 26-31.

Claims 26-31 were previously rejected as reciting "the plastic container" as if these were product claims. Office Action dated July 25, 2006 at 3. Applicants amended these claims to recite "the method" instead of "the plastic container" and thank the Examiner for withdrawing these rejections.

C. Claims 21-31.

Claim 21 was previously rejected as being dependent upon canceled claim 20. Office Action dated July 25, 2006 at 3. Claims 22-31 were rejected due to their dependency from claim 21. *Id.* Canceled claim 20 as originally written depended from claim 18. *Id.* Applicants amended claim 21 to depend from claim 18 and thank the Examiner for withdrawing these rejections.

III. Rejections Under 35 U.S.C. 103(a).

Claim 18 has been rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over McHenry. *See* Final Rejection at 8. Claims 18 and 29-31 were rejected under 35 U.S.C. §

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103(a) as allegedly unpatentable over Agrawal. *See* Final Rejection at 10. Claims 21-26 have been rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Jonas in view of Hodson. *See* Final Rejection at 13. Claim 27 has been rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Jonas in view of Hodson and Hope. *See* Final Rejection at 15. Claim 28 has been rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Jonas in view of Hodson and McHenry II. *See* Final Rejection at 15. Applicants respectfully submit that these references, either alone or in combination, do not disclose each and every limitation of the rejected claims and therefore do not support a *prima facie* case of obviousness. Applicants respectfully submit that these rejections should be withdrawn.

A. Claim 18.

Claim 18 has been rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over McHenry. *See* Final Rejection at 8. Applicants respectfully submit that McHenry does not disclose each and every limitation of claim 18, and therefore does not support a *prima facie* case of obviousness of claim 18.

The Examiner states that McHenry "teach[es] a method for forming a plastic container with a selectively deformable surface (abstract), comprising: selecting at least one polymer for a plastic container (column 4, lines 48-61); and thermoforming a plastic container from the heated polymer (column 3, line 39); wherein the plastic container comprises: a mouth; a bottom surface; and a container wall between the mouth and the bottom surface (Figure 1A) wherein the bottom surface is formed to consist of an arcuately curved surface contiguous to a concentric ring, both sides of the curved surface of the bottom surface are concave to the body cavity, and the concentric ring is proximate to both the curved surface and the container wall (Figure 1A, approximately at Ref. No. 7); wherein further the concentric ring is substantially planar between the curved surface and the container wall (Fig. 1A, approximately at Ref. No. 9b extending from the sidewall 3 to the curved area 7); wherein further one of the outwardly flexed bottom surface or the container wall is configured to flex inward into the cavity of the plastic container during cooling of the plastic container following hot-filling of the container with food product (Figure 1B); wherein further the inward flexing of the bottom surface of the container wall reduces a pressure differential between the inside of the container and atmospheric pressure when either the container is hot-filled with food product or when the container is transported from a locale of

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lower atmospheric pressure to higher atmospheric pressure (reduction of volume will inherently perform this task); and wherein further the non-flexing surface maintains the same form from prior to hot-filling or transport, wherein further the flexing surface maintains its inwardly flexed configuration following cooling of the hot-filled container (Figure 1A and 1B)." *See id.* at 8-9. The Examiner states that McHenry does not expressly disclose "that the plastic sheet is heated to its VICAT temperature before thermoforming," but "takes Official Notice that it is well known to heat a plastic sheet to its VICAT temperature before thermoforming." *Id.* at 9. The Examiner "recognizes that all of the claimed effects and physical properties are not positively stated by the reference(s)." *Id.* at 10. As noted, during the Interview, the Examiner requested that Applicants address a rejection of claim 18 under 35 U.S.C. § 103(a) over Fig. 1C of McHenry in this Submission. Applicants respectfully submit that neither Fig. 1A nor Fig. 1C disclose each and every limitation of claim 18 and therefore do not support a *prima facie* case of obviousness.

Specifically, Applicants respectfully submit that Figs. 1A and 1C do not disclose a bottom of a container that is formed during thermoforming but before filling with hot food product and sealing that consists of an arcuately curved surface contiguous to a concentric ring, wherein both sides of the entire curved surface are concave to the body cavity when viewed from the outside of the container and the concentric ring is planar between the curved surface and the container wall. First, Applicants respectfully submit that the bottom surface of the container stated by the Examiner to be disclosed in McHenry by element 7 of Fig. 1A is *not* an arcuately curved surface contiguous to a concentric ring that is planar between the arcuately curved surface and the container wall. Rather, element 7 of Fig. 1A is described in McHenry as "a substantially flat portion." *See, e.g.,* McHenry at Fig. 1A; col. 5, lines 3-7 (element 7 of Fig. 1A references a "substantially flat portion"). Accordingly, Applicants respectfully submit that Fig. 1A does not disclose the arcuately curved surface of the bottom of the container claimed in claim 18.

Further, Fig. 7, which depicts the container bottom wall of Fig. 2 (which is the same as the cylinder shown in Fig. 1A) in neutral, bulged and inwardly distended positions, shows that Fig. 1A also does not disclose a concentric ring that is planar between an arcuately curved surface and the container wall. *See* col. 3, lines 53-60 (Fig. 7 is a partial elevational fragmentary sectional view of the container shown in Fig. 2 . . ."); col. 3, lines 36-37 (Fig. 2 is an enlarged vertical section schematically illustrating the cylinder container of Fig. 1A."). The middle line of

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the bottom surface as depicted in Fig. 7 corresponds to the bottom surface seen in Fig. 1A (in the "neutral" position), and provides details of the convex annular rings 9 and 9a and interstitial ring 9b of Fig. 1A. *See* col. 3, lines 8-10 ("[i]n the drawings . . . like numerals are employed to designate like parts . . ."). The detail in Fig. 7 shows that convex annular rings 9 and 9a and interstitial ring 9b do *not* disclose a concentric ring that is planar between an arcuately curved surface (assuming that to be element 7, which as noted Applicants dispute is an arcuately curved surface) and a container wall because convex annular rings 9 and 9a and interstitial ring 9b are not planar. Accordingly, Fig. 1A, in further view of Fig. 7, does not disclose the bottom curved surface of the container as claimed in claim 18.

Finally, Fig. 1C does not disclose the bottom surface of the container in claim 18, either. Claim 18 has been amended to claim a bottom of a container that is formed during thermoforming but before filling with hot food product and sealing that consists of an arcuately curved surface contiguous to a concentric ring, wherein both sides of the entire curved surface are concave to the body cavity when viewed from the outside of the container and the concentric ring is planar between the curved surface and the container wall. Only Fig. 1A depicts the container of McHenry as formed during thermoforming but before filling with hot food product and sealing which, as previously discussed, does not disclose each and every limitation of claim 18. Fig. 1C cannot meet these limitations of claim 18 because this figure depicts the bottom surface of the container of McHenry *following* filling with a hot food product, sealing and during and after thermal processing. Accordingly, Fig. 1C does *not* depict the bottom wall 5 of the container of McHenry *as formed during thermoforming and before filling with hot food product and sealing*. Further, Fig. 7 illustrates that the convex annular rings 9 and 9a and interstitial ring 9b in the "inwardly distended" position are *not* planar between the concave curved surface and the sidewalls of the container in Fig. 1C.

Accordingly, Fig. 1C cannot satisfy the deficiencies of Fig. 1A, namely a bottom of a container formed during thermoforming but before filling with hot food product and sealing that consists of an arcuately curved surface contiguous to a concentric ring, wherein both sides of the entire curved surface are concave to the body cavity when viewed from the outside of the container and the concentric ring is planar between the curved surface and the container wall. Applicants therefore respectfully submit that neither Figs. 1A nor 1C of McHenry disclose each

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and every limitation of claim 18, and therefore do not support a *prima facie* case of obviousness of this claim.

B. Claims 18 and 29-31.

Claims 18 and 29-31 were rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Agrawal. *See* Final Rejection at 10. As noted in Section I *supra*, Applicants and the Examiner reached agreement during the July 11, 2007 Interview that claim 18, and claims 29-31 which depend from claim 18, are not unpatentable over Agrawal.

C. Claims 21-26.

Claims 21-26 have been rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Jonas in view of Hodson. *See* Final Rejection at 13. With regard to claim 21, the Examiner states that "Jonas et al teach the invention of claim 18 as discussed above but does not explicitly teach that the circumference of the mouth is greater than the circumference of the bottom surface. Hodson et al teaches a container for food storage that can be used with a hot fill application (paragraph 0057) in which the circumference of the mouth is greater than the circumference of the bottom surface (figure 3). At the time of the invention, it would have been obvious to a person of ordinary skill in the art to create a container where the circumference of the mouth is greater than the circumference of the bottom in the process of Jonas et al. The motivation to do so would have been to facilitate easy removal of a semi-solid food product from the container." *Id.* at 14.

Hodson discloses a laminated thermoformable film structure useful for packaging food products. *See* Hodson at Abstract. However, Hodson does not disclose each and every limitation of claim 18, from which claims 21-26 depend, that are not disclosed in Jonas as previously discussed in Sec. I. Specifically, claim 18 has been amended to include the limitation that the bottom of the container consists of an arcuately curved surface contiguous to a concentric ring, wherein both sides of the entire curved surface are concave to the body cavity when viewed from the outside of the container and the concentric ring is planar between the curved surface and the container wall. Hodson does not cure this deficiency of Jonas, and therefore a combination of Hodson and Jonas does not form a *prima facie* case of obviousness of the invention claimed in claim 18. *See* MPEP § 2142.

Since a combination of Hodson and Jonas does not disclose each and every limitation of

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claim 18, from which claims 21-26 depend, the combination of Hodson and Jonas does not form a *prima facie* case of obviousness and Applicants respectfully request that these rejections be withdrawn.

D. Claim 27.

Claim 27 has been rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Jonas in view of Hodson and Hope. *See* Final Rejection at 15.

With regard to claim 27, the Examiner states that "Jonas et al in view of Hodson et al teach the invention of claim 26 as discussed above, but do not explicitly teach that the adhesive contains an antioxidant. Hope et al. teach a plastic container comprising an adhesive blend containing an antioxidant (column 2, lines 66-68). At the time of the invention, it would have been obvious to a person of ordinary skill in the art to add an antioxidant to the adhesive taught by Hodson et al. The motivation to do so would have been to protect the food contained in the container from oxidation." *Id.* at 15.

Hope discloses a polyolefin-containing adhesive blend for bonding polypropylene to polar materials, and multilayer structures produced using the adhesive blend. *See* Hope at Abstract. However, Hope does not disclose each and every limitation of claim 18, from which claim 27 depends, that are not disclosed in Jonas or Hodson as discussed in Sec. III(C), *supra*. Specifically, claim 18 has been amended to include the limitation that the bottom of the container consists of an arcuately curved surface contiguous to a concentric ring, wherein both sides of the entire curved surface are concave to the body cavity when viewed from the outside of the container and the concentric ring is planar between the curved surface and the container wall. Hope does not cure this deficiency of Jonas in combination with Hodson, and therefore a combination of Hope in combination with Hodson and Jonas does not form a *prima facie* case of obviousness of the invention claimed in claim 18. *See* MPEP § 2142.

Since a combination of Hope, Hodson and Jonas does not disclose each and every limitation of claim 18, from which claim 27 depends, the combination of Hope, Hodson and Jonas does not form a *prima facie* case of obviousness and Applicants respectfully request that this rejection be withdrawn.

E. Claim 28.

Claim 28 has been rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over

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Jonas in view of Hodson and McHenry II. *See* Final Rejection at 15. With regard to claim 28, the Examiner states that "McHenry II teaches a plastic container with the components of Hodson (polypropylene, EVOH, and adhesive) (see col. 18, lines 39-42). The components are 89% PP (80-90%) (col. 18, lines 39-42), which meets the limitations of the claim. It would have been obvious to one of ordinary skill in the art at the time the invention was made to combine McHenry II's plastic component portions with the structure taught by Jonas in view of Hodson as it is directed to making plastic containers (abstract) and contains the same components." *Id.* at 15.

McHenry II discloses improved multi-layer injection molded and injection blow molded articles, apparatus to manufacture such articles and methods to produce them. *See* col. 1, lines 7-10. However, McHenry II does not disclose each and every limitation of claim 18, from which claim 28 depends, that are not disclosed in Jonas or Hodson as discussed in Sec. III(C) *supra*. Specifically, claim 18 has been amended to include the limitation that the bottom of the container consists of an arcuately curved surface contiguous to a concentric ring, wherein both sides of the entire curved surface are concave to the body cavity when viewed from the outside of the container and the concentric ring is planar between the curved surface and the container wall. The only article disclosed in McHenry II is that seen in Figs. 8 and 8A. This article does not include a container bottom that consists of an arcuately curved surface contiguous to a concentric ring, wherein both sides of the entire curved surface are concave to the body cavity when viewed from the outside of the container and the concentric ring is planar between the curved surface and the container wall. McHenry II therefore does not cure the deficiency of Jonas in combination with Hodson, and therefore a combination of McHenry II in combination with Hodson and Jonas does not form a *prima facie* case of obviousness of the invention claimed in claim 18. *See* MPEP § 2142.

Since a combination of McHenry II, Hodson and Jonas does not disclose each and every limitation of claim 18, from which claim 28 depends, the combination of McHenry II, Hodson and Jonas does not form a *prima facie* case of obviousness and Applicants respectfully request that this rejection be withdrawn.

IV. Claims 15 and 17.

Applicants respectfully submit that, in light of the agreement reached during the July 11,

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2007 Interview, there are no remaining rejections of or objections to claims 15 and 17, and that these claims should therefore be allowable.

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CONCLUSION

Applicants respectfully submit that pending claims 15, 17-19 and 21-31 are allowable and request allowance of the same. This Submission and Request for Continued Examination have been filed within four months of the mailing date of the Final Rejection, and the Commissioner is hereby authorized to charge the fee of \$455.00 for filing the Request for Continued Examination and one month extension of time from the undersigned's Deposit Account No. 50-0206. In the event any variance exists between the amount authorized and the fees determined to be due, please charge or credit any difference to the undersigned's Deposit Account No. 50-0206.

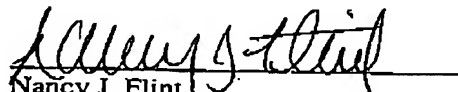
Respectfully submitted,

HUNTON & WILLIAMS LLP

Dated: July 30, 2007

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